

**§ 1439.902**

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or 2004 losses under this subpart. Payments may become available as contracts with tribal governments are approved. Unless otherwise specified or determined by the Deputy Administrator, a livestock producer is not eligible to receive payments for the same loss under both this subpart and another Federal program. Payments will terminate when the specified deadline has been reached, when a tribal government requests termination, or when there is a program violation or a violation of a contract related to the program irrespective of whether the violation involves the current operation of the program for other periods of time.

**§ 1439.902 Administration.**

(a) This subpart will be administered by CCC under the general supervision of the Deputy Administrator for Farm Programs. This program shall be carried out in the field as prescribed in these regulations and as directed in the contract executed between the applicable tribal government and CCC, except that in the event any contract provision conflicts with these regulations, the regulations shall apply.

(b) Tribal governments, their representatives, and employees do not have authority to modify or waive any provisions of the regulations of this subpart.

(c) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any provisions of regulations of this subpart.

(d) The Deputy Administrator may authorize State and county committees to waive or modify deadlines and other program requirements in cases where the applicant or tribe, as applicable, shows that circumstances beyond the applicant's or tribe's control precluded compliance with the deadline and where lateness or failure to meet such other requirements does not adversely affect the operation of the program.

(e) The tribal government will, in accordance with this part and in coordination with the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), and FSA State and county committees, recommend the geographical size and shape of the region which will

be considered to be eligible to be considered the region where the natural disaster has occurred and where all eligibility conditions are met. Such region must consist solely of tribal-governed land and be located in a primary county or counties named in a Presidential declaration or Secretarial emergency designation. Regional eligibilities will be effective only upon the Deputy Administrator's approval in writing and continued approval thereafter.

(f) The Deputy Administrator will determine all prices with respect to implementing the AILFP.

(g) Subject to review by the Deputy Administrator, the FSA State committee will determine crop yields and livestock carrying capacity with respect to implementing the AILFP.

(h) Participation in the AILFP by a tribal government for either the tribal government's benefits or for the benefit of any eligible owner is voluntary and is with the understanding that CCC will not reimburse the tribal government or its members for any administrative costs associated with the administration or implementation of the program.

(i) Except as otherwise declared by the Deputy Administrator, Subpart A shall not apply to this subpart, except §§ 1439.3 through 1439.10, and 1439.12.

(j) No delegation herein to a State or county committee or a commodity office shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee or employee of the Department of Agriculture.

**§ 1439.903 Definitions.**

The definitions set forth in this section shall be applicable to the program authorized by this subpart. The terms defined in § 1439.3 shall also be applicable except where those definitions conflict with the definitions set forth in this subpart. The following terms shall have the following meanings:

*Approving official* means a representative of the tribal government who is authorized to approve an application

for assistance made in accordance with this subpart.

*Carrying capacity* means the stocking rate expressed as acres per animal unit that is consistent with maintaining or improving vegetation or related resources.

*Dependent Indian community* means a limited category of Indian lands that are neither reservations nor allotments and is:

(1) Land set aside by the Federal Government for the use of Indians as Indian land, and

(2) Under Federal superintendence.

*Disaster period* means the length of time that damaging weather, adverse natural occurrence, or related condition had a detrimental affect on the production of livestock feed.

*Eligible feed for assistance* means any type of feed (feed grain, oilseed meal, premix, or mixed or processed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that provides net energy requirements, is consistent with acceptable feeding practices, and was not produced by the owner.

*Eligible livestock* means only those animals produced specifically for food for human consumption, or used directly for the production of food for human consumption, or for the production of fiber, as determined by the Deputy Administrator, and includes beef and dairy cattle, buffalo, and beefalo, maintained on the same basis as beef cattle, equine animals, sheep, goats, swine, elk, and reindeer. Animals maintained for recreational purposes, hunting, or for show, are not eligible under any circumstances.

*Eligible owner* means an individual or entity, including a tribe, eligible to participate in this program, who:

(1) Contributes to the production of eligible livestock or their products;

(2) Has such contributions at risk;

(3) Meets the criteria set forth in §1439.907, and elsewhere in this part; and

(4) Meets eligibility criteria set forth by the tribal government in an approved contract.

*Livestock feed crop year* means a period of time beginning on the date grazing first becomes available in each county, as established by each State Committee, and ending one year later.

*Livestock feed emergency* means a situation in which a natural disaster causes more than a 35-percent reduction in the feed produced in a region, determined in accordance with §1439.904 for a defined period, as determined by CCC. Any loss of feed production attributable to overgrazing or other factors not considered to be a natural disaster as specified in this subpart shall not be included in the loss used to determine if a livestock feed emergency occurred.

*Natural disaster* means damaging weather, including but not limited to: drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof; or an adverse natural occurrence such as earthquake, flood, or volcanic eruption; or a related condition, including but not limited to heat, or insect infestation, that occurs as a result of aforementioned damaging weather or adverse natural occurrence prior to or during the crop year that directly causes, accelerates, or exacerbates the reduction of livestock feed production.

*Region* means a geographic area suffering a livestock feed emergency because of natural disaster as determined by a tribal government in accordance with §1439.904.

*Tribal governed land* means:

(1) All land within the limits of any Indian reservation;

(2) Dependent Indian communities;

(3) Any lands title to which is either held in trust by the United States for the benefit of an Indian tribe or Indian, or held by an Indian tribe or Indian subject to a restriction by the United States on alienation; and

(4) Land held by an Alaska Native, Alaska Native Village, or village or regional corporation under the provisions of the Alaska Native Claim Settlement Act, or other Act relating to Alaska Natives.

*Tribe* means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

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*Type and weight range* means the weight range by type of livestock; provided further that for purposes of calculations of payment eligibility under this subpart, as provided for in this subpart, such livestock shall be considered to have the following daily feed need expressed in pounds of corn per head per day:

Category	Weight range	Pounds of corn per head, per day
Type—Beef Cattle (Buffalo/Beefalo):		
Beef .....	Under 400 .....	3.5
Beef .....	400-799 .....	6.5
Beef .....	800-1099 .....	8.5
Beef .....	1100+ .....	12.5
Beef, Cow .....	All .....	15.7
Beef, Bull .....	1000+ .....	13.0
Type—Dairy Cattle:		
Dairy .....	Under 400 .....	3.5
Dairy .....	400-799 .....	6.5
Dairy .....	800-1099 .....	8.5
Dairy .....	1100+ .....	12.5
Dairy, Cow .....	Under 1100 .....	27.0
Dairy, Cow .....	1100-1299 .....	31.0
Dairy, Cow .....	1300-1499 .....	33.0
Dairy, Cow .....	1500+ .....	34.5
Dairy, Bull .....	1000+ .....	14.5
Type—Swine:		
Swine .....	Under 45 .....	0.5
Swine .....	45-124 .....	1.1
Swine .....	125+ .....	1.9
Swine, Sow .....	235+ .....	6.5
Swine, Boar .....	235+ .....	3.7
Type—Sheep:		
Sheep .....	Under 44 .....	0.4
Sheep .....	44-82 .....	0.9
Sheep .....	83+ .....	1.1
Sheep, Ewe .....	150+ .....	3.1
Sheep, Ram .....	150+ .....	1.7
Type—Goats:		
Goats .....	Under 44 .....	0.5
Goats .....	44-82 .....	1.1
Goats .....	83+ .....	1.5
Goats, Doe .....	125+ .....	3.5
Goats, Doe (Dairy) .....	125+ .....	5.2
Goats, Buck .....	125+ .....	2.1
Type—Equine:		
Equine .....	Under 450 .....	4.4
Equine .....	450-649 .....	6.3
Equine .....	650-874 .....	8.2
Equine .....	875+ .....	11.6
Type—Reindeer:		
All .....	Under 400 .....	3.5
Type—Elk		
Elk .....	Under 400 .....	3.5
Elk, Cow .....	400-799 .....	6.5
Elk, Bull .....	800-1099 .....	8.5

[70 FR 16394, Mar. 31, 2005, as amended at 71 FR 10831, Mar. 3, 10831]

§ 1439.904 Region.

In order for a region to be eligible to generate benefits under this subpart, the region must:

- (a) Be located in a primary county or counties named in a Presidential declaration or Secretarial emergency designation;
- (b) Be tribal-governed land physically located within the primary disaster designated county; and
- (c) Have suffered a livestock feed emergency as defined in §1439.903.

§ 1439.905 Responsibilities.

- (a) During the operation of this program, CCC shall:
  - (1) Provide weather data, crop yields and carrying capacities to tribes requesting such information;
  - (2) Review contracts submitted by tribal governments requesting disaster regions; and
  - (3) Act as an agent for disbursing payments to eligible livestock owners in approved disaster regions.
- (b) Tribal governments shall be responsible for:
  - (1) Submitting a contract to participate in the ALLFP based on the tribes' voluntary decisions that participation will benefit all livestock owners using tribal governed land;
  - (2) Gathering, organizing, and reporting accurate information regarding disaster conditions and region;
  - (3) Advising livestock owners in an approved region that they may be eligible for payments, in addition to the method and requirements for filing applications;
  - (4) Determining that the information provided by individual livestock owners on payment applications is accurate and complete and that the owner is eligible for payments under this program;
  - (5) Submitting only accurate and complete payment applications to the designated FSA office acting as an agent for disbursing payments to eligible livestock owners.
- (c) The owner or authorized representative shall:
  - (1) Furnish all the information specified on the payment application, as requested by CCC;
  - (2) Provide any other information that the tribal government deems necessary to determine the owner's eligibility; and